

Notice of Allowability

Application No.

10/071,469

Examiner

Daniel S. Metzmaier

Applicant(s)

BENTLEY ET AL.

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5/7/2004 & 6/28/2004.
2. ☒ The allowed claim(s) is/are 1,3-5,7-16, 18-20 and 27-30.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 2/8/2002 (Copy).
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 09/15/2004.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

Claims 1, 3-5, 7-16, 18-20 and 27-30 are allowed.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07 May 2004 has been entered.

Examiner's amendment

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Christopher M. Humphrey on 15 September 2004.

The application has been amended as follows:

Amendment to the claims is set forth beginning on page 3.

In the claims

Replace the pending list of claims with the following list of claims:

1. (Currently Amended) A polymer composition, comprising a mixture of a polymer derivative having the structure R-O-POLY-R' and a polymer derivative having the structure R-O-POLY-O-R, wherein POLY is a water-soluble and non-peptidic polymer, R is alkyl and R' is a functional group,

wherein POLY is poly(alkylene glycols), and

wherein R' is selected from the group consisting of hydroxyl, mesylate, tosylate, tresylate, -O-CO₂R₃ wherein R₃ is H, alkyl or N-succinimidyl, -O-(CH₂)_n-CO₂R₃ wherein n is 1-6 and R₃ is H, alkyl or N-succinimidyl, -NHR₄ wherein R₄ is H or alkyl or an amine protecting group, -O-(CH₂)_n-CH(ZR₅)₂ wherein n is 1-6, and Z is O or S, R₅ is H or alkyl, Ar-CH=CH-CH=CH-CO₂-, wherein Ar represents a moiety selected from the group consisting of phenyl, substituted phenyl, biphenyl, substituted biphenyl, polycyclic aryls, substituted polycyclic aryls, and heterocyclic aryls, -O-(CH₂)_n-CHO wherein n is 1-6, -O₂CCH₂CH₂CO₂R₆, wherein R₆ is H or N-succinimidyl, CH₂=CH-CO₂-, and -O-CH₂-CO₂CH(CH₃)CH₂CO₂-NHS, wherein NHS is N-succinimidyl.

2. (Canceled).

3. (Original) The polymer composition of Claim 1, wherein POLY is poly(ethylene glycol).

4. (Original) The polymer composition of Claim 3, wherein POLY has the formula -CH₂CH₂-O-(CH₂CH₂O)_n-CH₂CH₂-, where n is from about 8 to about 4000.

5. (Original) The polymer composition of Claim 1, wherein R is methyl.

6. (Canceled).

Art Unit: 1712

7. (Original) The polymer composition of Claim 1, wherein R' is hydroxyl.
8. (Original) The polymer composition of Claim 1, wherein R' is -O-CO₂R₃ or -O-(CH₂)_n-CO₂R₃ wherein R₃ is H, alkyl or N-succinimidyl.
9. (Original) The polymer composition of Claim 1, wherein R₃ is N-succinimidyl.
10. (Original) The polymer composition of Claim 1, wherein R' is -O-(CH₂)_n-CHO wherein n is 1-6.
11. (Previously Presented) The polymer composition of Claim 1, wherein R' is -O-(CH₂)_n-CH(ZR₅)₂ wherein n is 1-6, and Z is O or S, R₅ is H or alkyl.
12. (Original) The polymer composition of Claim 1, wherein POLY is poly(ethylene glycol), R is methyl, and R' is -O-(CH₂)_n-CHO wherein n is 2.
13. (Original) The polymer composition of Claim 12, wherein POLY has the formula -CH₂CH₂-O-(CH₂CH₂O)_n-CH₂CH₂-, where n is from about 8 to about 4000.
14. (Original) The polymer composition of Claim 1, wherein POLY is poly(ethylene glycol), R is methyl, and R' is hydroxyl.
15. (Original) The polymer composition of Claim 14, wherein POLY has the formula -CH₂CH₂-O-(CH₂CH₂O)_n-CH₂CH₂-, where n is from about 8 to about 4000.
16. (Currently Amended) A polymer composition, comprising a polymer derivative having the structure R-O-POLY-R' and a polymer derivative having the structure R-O-POLY-O-R, wherein POLY is a water-soluble and non-peptidic polymer, R is alkyl and R' is -O-(CH₂)_n-CHO or -O-(CH₂)_n-CH(ZR₅)₂ wherein n is 1-6, and Z is O or S, R₅ is H or alkyl, in the absence of HO-POLY-OH, and wherein POLY is poly(alkylene glycols).

Art Unit: 1712

17. (Canceled).
18. (Original) The polymer composition of Claim 16, wherein POLY is poly(ethylene glycol).
19. (Original) The polymer composition of Claim 18, wherein POLY has the formula $-\text{CH}_2\text{CH}_2-\text{O}-(\text{CH}_2\text{CH}_2\text{O})_n-\text{CH}_2\text{CH}_2-$, where n is from about 8 to about 4000.
20. (Original) The polymer composition of Claim 16, wherein R is methyl.
- 21-26. (Canceled).
27. (Original) The polymer composition of Claim 16, wherein POLY is poly(ethylene glycol), R is methyl, and R' is $-\text{O}-(\text{CH}_2)_n-\text{CHO}$ wherein n is 2.
28. (Original) The polymer composition of Claim 27, wherein POLY has the formula $-\text{CH}_2\text{CH}_2-\text{O}-(\text{CH}_2\text{CH}_2\text{O})_n-\text{CH}_2\text{CH}_2-$, where n is from about 8 to about 4000.
29. (Previously Presented) The polymer composition of Claim 16, wherein POLY is poly(ethylene glycol) and R is methyl.
30. (Original) The polymer composition of Claim 29, wherein POLY has the formula $-\text{CH}_2\text{CH}_2-\text{O}-(\text{CH}_2\text{CH}_2\text{O})_n-\text{CH}_2\text{CH}_2-$, where n is from about 8 to about 4000.
- 31-50. (Canceled).

Reasons for allowance

2. The following is an examiner's statement of reasons for allowance: The prior art does not disclose or fairly suggest the compositions as now claimed. The rejections have been obviated by applicants amendments, accompanying arguments therewith, and the examiner's amendments. The instant examiner's amendments more clearly define said claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Metzmaier whose telephone number is (703) 308-0451. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P. Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1712

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel S. Metzmaier
Primary Examiner
Art Unit 1712

DSM